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Report on Property Tax Exemptions (of Property Owned by Literary, Benevolent , Charitable, Fraternal and Religious Organizations)

City Club of Portland (Portland, Or.)

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REPORT
ON
PROPERTY TAX EXEMPTIONS

(of Property owned by Literary, Benevolent, Charitable, Fraternal
and Religious Organizations)

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**REPORT
ON
PROPERTY TAX EXEMPTIONS**

(of Property owned by Literary, Benevolent, Charitable, Fraternal
and Religious Organizations)

To the Board of Governors,
The City Club of Portland:

I. ASSIGNMENT

Your Committee was asked to examine, report on and make recommendations on the question of exemption from property taxes of literary, charitable, scientific, fraternal and religious organizations and specifically to consider the validity of the public policy reasons for continuing such exemptions, the loss in revenue resulting from exemptions and alternatives to the exemptions.

Many other exempt properties, such as those of governments, veterans, senior citizens, etc., were not covered by our assignment. These are shown in a table in Part II of this report.

Problems caused by property tax exemption were examined by Harold B. Meyers in a recent article in the May, 1969 issue of *Fortune*. In his article Mr. Meyers states:

"Tenants of the seventy-seven story Chrysler Building pay nearly \$7 million a year in rent, but New York City gets not a dime of property taxes on the skyscraper or the valuable land beneath it. Owned by the Cooper Union for the Advancement of Science and Art, the world's third-tallest building is tax-exempt—a towering symbol of what is coming to be recognized as a national scandal. For reasons ranging from the charitable to the specious, billions of dollars' worth of real estate are escaping the tax collector, thereby depriving local governments of revenue at a time when their financial needs are becoming more and more desperate, and increasing the burden on those property owners who are required to pay taxes.

"In 1968, according to one solidly based estimate, almost a third of all potentially taxable real estate in the U. S. was entitled to some kind of exemption (and this does not include the huge land areas—e.g., nearly 97 percent of Alaska—that remain in the public domain.) At the rate at which property is going off the tax rolls, half of all real estate could be exempt before long.

"Some cities are already approaching the halfway mark, Newark among them. Afflicted with just about every urban malignancy, Newark needs all the money it can get. Yet its tax base has been eroding for years as industry and middle-income residents moved out and more property went on the exempt list. Now property assessed at \$549,631,100 — 45 percent of Newark's total assessed valuation—escapes local taxation, while the owners of the remaining 55 percent pay one of the highest tax rates in the country. In the coming fiscal year the rate will be about \$8.32 per \$100 of valuation.

"Alarmed by mounting inequities and fiscal losses, hard-pressed officials around the nation are beginning to cry halt, and a new group of tax reformers is fashioning a legal counter-attack against many long-existing exemptions that no longer seem justified. A number of states, including Rhode Island, New Jersey and Minnesota, have conducted full-scale investigations, and several legislatures are considering a variety of reforms dealing with exemptions. In many cities and states, tax officials are cracking down on obvious abuses. Courts are hearing dozens of cases involving

efforts to revoke or withhold exemptions for income-earning property such as retirement homes and summer camps. Just about everywhere, reformers are seeking ways to force owners of certain kinds of exempted property to shoulder at least part of the cost of governmental services.

"The exemption scandal has not yet stirred up anything like a full-fledged taxpayers' revolt. But the reformers are getting enthusiastic public support, and a lot of alert mayors, city councilmen, and state legislators are seizing on exemptions as a potent new political issue."

The subject of property taxes has been one of the hottest political issues in Oregon. Exemptions raise the fear of abuses that were found in other parts of the nation. Is the Oregon property tax system fostering the type of erosion experienced elsewhere? Are there abuses? These are questions which your Committee hopes to answer.

II. BACKGROUND

The Committee found that there are two general misunderstandings. The first misunderstanding is that property tax exemption causes a revenue loss. The second misunderstanding is the belief that much more property is exempt than is actually the case.

Effects of exemption of property tax rate

In order to understand the effect of placing existing tax-exempt property on the tax rolls, certain terms should be defined. These are:

TAX BASE—A tax base is that fixed amount of money that a governmental unit can raise by levying a tax as provided by law. The initial base must be approved by the voters of the taxing unit. Thereafter, the unit can increase the base by no more than six percent annually (the 6% limitation) without voter approval.

As an example, the tax base in Multnomah County for the 1968-69 fiscal year was \$23,828,442. Without voter approval, the 1969-70 tax base can be no more than \$25,258,149, or a six percent increase of \$1,429,707.

ASSESSED VALUE—The assessed value means that dollar amount placed on all property in Oregon which represents 100 percent of true cash value. The county assessing officers, and in some instances the Department of Revenue, are responsible for this function.

As an example, the 1968-69 assessed value of taxable property in Multnomah County is \$4,047,443,504.

TAX RATE—The tax rate is an amount stated in dollars and cents per \$1,000 true cash value, which rate is obtained by dividing the tax base by the assessed value.

As an example, the tax rate in Multnomah County for 1968-69 was \$6.12 per \$1,000 of true cash value and is calculated as follows:

$$\begin{array}{rcl} \text{Tax Base} & \div & \text{assessed value} = \text{tax rate} \\ \$24,759,883^* & \div & \$4,047,443,504 = \$6.12 \end{array}$$

*adjusted to reflect certain offsets.

CONSOLIDATED TAX RATE—The tax rates of all governmental units having jurisdiction in a given area are combined to give the consolidated tax rate for that area.

As an example, the 1968-69 consolidated tax rate for the majority of the City of Portland was \$29.58 per \$1,000 of true cash value. This rate is obtained by combining the tax rates of Multnomah County, Port of Portland, School District No. 1, County Intermediate School District and the City of Portland.

If the value of the tax-exempt property your Committee was directed to examine were added to the tax rolls, the result would be a larger assessed value, thus a lower tax rate. This means a form of property tax relief. In Multnomah County there was, for the 1968-69 fiscal year, the following values assigned to the study categories:

Literary, Benevolent, etc.	\$94,835,650
Religious	82,194,290
Fraternal	6,041,090
	<hr/>
	\$183,071,030

Adding this total to the County's assessed value of \$4,047,443,504 will lower the tax rate to \$5.85 (\$24,759,883 ÷ \$4,230,514,534). What this lower tax rate would mean to the owner of a \$20,000 home is shown in the following example:

County tax rate	x	Value of home	=	Tax
\$6.12 (with exemptions)	x	\$20,000	=	\$122.40
\$5.85 (without exemptions)	x	20,000	=	117.00
			<hr/>	
		Total Tax Reduction		\$ 5.40

This, of course, is only a part of any consolidated tax rate. A similar reduction would be seen in the tax rates of other governmental units such as school, water and fire districts, depending upon the amount of tax-exempt property within each of these units.

It is possible that the owner of a \$20,000 home located in an area where the percentage of tax-exempt property was high, such as the City of Portland, could realize approximately \$27.00 in property tax relief. On the other hand, the owner of a \$20,000 home located elsewhere in Multnomah County where the percentage of tax-exempt property was low might only realize about \$7.00 in property tax relief.

In summation, then, adding tax-exempt property to the tax rolls would not increase the *tax base* thus allowing the local government to raise more money, but would, instead, result in a minor form of property tax relief, because part of the tax burden would be shifted to formerly tax exempt property.

What properties are exempt?

The Committee found that there is a general misunderstanding as to what properties are actually exempt. Many people think there is much more property qualified for exemption than is actually the case. This misunderstanding may result from confusion in exemption granted from Federal and State income taxes versus property tax exemption.

Generally, property tax exemptions are much more restrictive than Federal or State income tax laws. For instance, a non-profit organization such as a church might have an operating business such as a book store. The income would probably be tax exempt. The property would be taxed.

No property is exempt unless it is actually used by the organization in its exempt activity. Thus, vacant lots or unoccupied buildings are not exempt, and property used in a profit-making activity is not exempt. To be exempt, the property must satisfy the requirements of the statutes (Exhibit B) and judicial precedents. The following indicates, briefly, these requirements for tax exempt status:

—Literary, benevolent, charitable, or scientific organization

The exemption for these organizations is provided by ORS 307.130 (Exhibit B). This is the section under which most groups would seek exemption. Most hospitals and the United Good Neighbors agencies are some of the familiar ones. To obtain an exemption, the following requirements must be met:

1. An application must be filed.
2. The organization must be incorporated.
3. The organization must be *both* non-profit and charitable.⁽¹⁾
4. The property must be owned by or in the process of being purchased by the non-profit organization.

⁽¹⁾Oregon Stamp Society vs. State Tax Commission, 1 OTR 190 (1963).

5. The property must be occupied or used in connection with the charitable activity of the organization.
6. A parking lot will qualify for exemption if it is maintained solely for the use, without charge, of persons going to and from the property otherwise exempt.

The statutes do not define a literary, benevolent, charitable, or scientific institution. This is determined by the County Assessing Officer and the State Department of Revenue, or, in contested issues, the courts.

—Religious organizations

ORS 307.140 provides exemption of certain property owned or being purchased by religious organizations. An application must be filed to have property removed from the tax rolls. Only the following property qualifies:

1. Houses of public worship.
2. Buildings used solely for entertainment and recreational purposes by religious organizations.
3. The lots on which exempt buildings are situated.
4. Pews, slips, and furniture located in the exempt buildings.
5. Parking lots maintained solely for the use without charge of persons going to and from exempt buildings.

Any part of a house of public worship used as a shop or store or any purpose other than for public worship or education will be taxed.

—Educational institutions

Property owned or being purchased by incorporated eleemosynary institutions or by incorporated religious organizations is exempt if used in immediate connection with educational purposes. This includes schools, academies and student housing accommodations. (ORS 307.145)

—Fraternal organizations

All property actually occupied or used in fraternal or lodge work or for entertainment and recreational purposes by one or more fraternal organizations is exempt. This includes parking lots maintained solely for the use, without charges, of persons going to and from the exempt buildings. Property or portions of property of a fraternal organization rented or leased by it at any time to other persons for a sum greater than out-of-pocket expenses for heat, light, water and janitorial services and supplies is subject to taxation (ORS 307.136) See ORS 307.134 (Exhibit B) for definition of "Fraternal organization".

—Examples of properties qualifying or not qualifying for exemption as a result of court cases or administrative rulings:

The following are types of properties that have qualified for exemption:

The pro rata portion of property that is held for charitable purposes where a portion of the property is rented and the other portion is used by the charitable organization.

A community club where the by-laws of the club refer to both community and public uses plus membership activities where it is determined that community uses prevail.

A building used by an exempt boarding school as a residence for teachers when the constant presence of the teachers at the school is required.

A newly erected college building used as a storage of school supplies.

A building owned by a church and used only during the summer months in the operation of a summer camp school.

The following are types of properties which have not qualified:

A building or a portion of a building, as the case may be, on property owned by a religious organization and occupied by a minister, rabbi, priest or other similar religious leader or clergyman.

Property rented to a commercial organization.

A building owned by a non-profit hospital corporation where a part of the building is rented out for use as medical and dental offices.

Property donated to a university on the condition that the income be paid and profit thereon be turned over to the donor during his lifetime.

Property proposed for use as a park for convalescent patients of an exempt hospital is not exempt from tax until so used.

Land owned and used by an adjacent church as a playground area on which the church planned to construct a school.

Radio communications corporation claiming an exemption as a scientific institution where it was not also a charitable corporation.

A school laundry operated in part in competition with commercial laundries.

Property used as living quarters for the faculty by a school which is not a boarding school.

Lodge home of fraternal organizations unoccupied during period of reconstruction.

The portion of a building owned by a fraternal organization and rented out as rooms for members.

Property of golf club and similar social clubs.

Property of a non-profit organization which provides a home for care of the elderly but which admits only those who pay an initial "founder's fee" and whose financial status at the time of entry gives assurance that they can pay a monthly "life care" charge.

The real and personal property of a business college organized for private gain.

How much property is exempt?**ESTIMATED TRUE CASH VALUE OF ALL EXEMPT AND TAXABLE REAL AND PERSONAL PROPERTY BY CLASS OF PROPERTY IN THE STATE OF OREGON**

CLASS	1968 True Cash Value	Subtotals of Exemptions	Combined Totals
Amounts of exemptions on exempt property of religious, charitable and fraternal organizations studied by Committee			
Literary and benevolent organizations and institutions	\$ 164,885,000		
Religious orders	230,718,000		
Fraternal organizations	40,761,000		
Organization exemptions total		\$ 436,364,000	
Amounts of exemptions on other exempt or partially-exempt, privately-owned property			
Inventory and livestock	\$ 106,664,000		
Intangibles (bank deposits, bonds, mortgages, common stock, etc.)	2,700,000,000		
Vehicles (aircraft, autos, buses, etc.)	1,300,000,000		
Household goods and personal effects	975,000,000		
Farm produce cancellation (processor's law)	111,794,000		
Burial grounds	6,324,000		
Libraries	6,016,000		
Crops, orchards, and shrubs	65,000,000		
Banks, and financial institutions (personal property)	1,600,000		
In-transit merchandise (freeport law)	65,474,000		
Vehicles and trailers in inventory	41,478,000		
Manufacturing and commercial facilities under construction	16,409,000		
Veterans' homesteads	164,048,000		
Senior citizens' homesteads	86,229,000		
Zoned farmlands	4,000,000		
Nonzoned farmlands (Deferral)	152,000,000		
Western Oregon timber (1967)	62,800,000		
Eastern Oregon timber (1967)	98,600,000		
Other private property exemptions total		\$5,963,436,000	
Publicly Owned Property			
Federal	\$4,667,651,000		
State	1,212,421,000		
Local	1,479,384,000		
Publicly Owned exemptions total		\$7,359,456,000	
TOTAL EXEMPT PROPERTY			\$13,759,256,000
Taxable Property			\$16,015,971,000
GRAND TOTAL			\$29,775,227,000

NOTE: Figures are 1968 estimate of State Tax Commission (now Department of Revenue) unless otherwise noted.

Owners of some of the above-listed exempt, privately-owned property pay substantial licenses and taxes in lieu of property taxes, e.g., motor vehicles licensed and severance taxes on Eastern Oregon timber.

Treatment of exemptions in other states.

Most states exempt the same type of properties as Oregon. Some states put a limitation as to dollar value or acreage. Oregon has no such limitations. A few states do not exempt fraternal organizations. It has already been noted that many studies have been made on the treatment of tax-exempt properties. Apparently these studies have resulted in very few changes. A more thorough discussion of the treatment of exemption in other states was prepared by K. C. Forester, the Committee's Research Intern. This discussion is contained in Exhibit C.

Appraisal problems if property now exempt is put on the tax rolls.

Even though the property is exempted, the statutes require that it be appraised. The true cash value of the tax-exempt properties, however, is not kept up to date. Assessing officers told your Committee that some properties, such as churches and schools, are difficult to appraise because there is no market for the properties. Also, the assessor's office does not spend a great deal of time on the tax-exempt properties because they are exempt and do not increase the assessed value in a tax code area.

If the properties were placed on the tax rolls, with the resulting requirement of current true cash valuations, additional men would probably have to be hired by the assessor's office.

III. LEGISLATIVE HISTORY

Constitutional and Legal Issues:

The issue of separation of church and state as guaranteed by the First Amendment of the United States Constitution has been raised in connection with exemption for property used exclusively for religious purposes. The religious exemption has been consistently upheld by the courts throughout the country [see *Murray v. Comptroller of Treasury*, 241 MH.383 (1966)]. The power of the states to grant exemptions for uses other than religious uses has not been challenged in the courts.

On June 16, 1969, the United States Supreme Court agreed to consider, for the first time, claims that the Constitution forbids the tax exemption of property used for religious purposes.

The "church-state" issue was raised in an appeal by a New York lawyer, Frederick Walz [*Walz v. Tax Commission*, 24 NY2d30 (1969)]. He rested his case on the First Amendment.

His lawyer said his "civil rights of religious freedom" and those of all other property owners were unconstitutionally burdened by the exemption given religious institutions from real estate taxes. As a property owner in Staten Island, Mr. Walz alleged he was being forced, in effect, to make a payment to religious organizations in violation of his right of "religious freedom."

Past Legislative Activity in Oregon.

Since 1854, property owned by literary, benevolent, charitable, fraternal and religious organizations has been exempt from property tax, either by statute or as a matter of administrative treatment by the assessors. For example, fraternal organizations did not have specific exemptions under the statute until 1961. Special legislation was passed at that time, because assessors had successfully denied exemptions to them even though they had traditionally been treated as exempt up to 1961.

There have been attempts to reduce the amount of exempt property in several recent legislative sessions. These attempts have been unsuccessful, with the bills dying in either the House or the Senate Taxation Committees.

Recent Legislative Activity in Oregon.

The 55th Oregon Legislative Assembly was quite active in the area of property tax exemption. The major legislative proposals were contained in three bills: Senate Bill 533, House Bill 1300, and House Bill 1470.

Senate Bill 533, passed by the 1969 Legislature, was introduced at the request of Goodwill Industries. Like the 1961 Legislation for fraternal organizations, Sen-

ate Bill 533 codifies a prior administrative exemption that had been successfully challenged by the tax assessors. The bill retroactively exempted from property taxation all real or personal property of any sheltered workshop and its retail outlets, including inventory, for all tax years beginning on or after January, 1965.

House Bill 1300 attempted to utilize the privileges of property tax exemption to combat discrimination in fraternal organizations. If the fraternal organization discriminates on the basis of race, color, national origin or ethnic consideration, its property tax exempt status would have been terminated. This bill passed the House but died in the Senate Taxation Committee.

The purpose of House Bill 1470 was to have religious organizations, fraternal organizations, literary, benevolent, charitable and scientific institutions pay for the public services they receive. It was estimated by sponsors of the bill that on a statewide average, 25.2 percent of all property taxes collected are used for noneducational public services. The charitable organizations would be assessed 10 percent of true cash value of all personal and real property in 1970, 20 percent in 1971, and 25 percent for every year thereafter.

This controversial bill was passed by the House 40 to 19 on April 10, 1969. It was referred to the Taxation Committee by the Senate. The Senate Taxation Committee amended the bill to remove religious organizations and literary, benevolent, charitable and scientific institutions from its coverage, leaving its amended coverage to fraternal organizations only. The Senate Taxation Committee did not pass it out of the Committee.

Directly related to property tax exemption was the sales tax package passed by the Legislature but defeated by the voters of Oregon on an 8-to-1 basis. The relation lies in the quest for property tax relief. The relief can come through allocation of monies from other sources to the tax base such as by an allocation of \$100,000,000 from sales taxes or by removing exemptions to broaden the assessed values by removal of property tax exemptions.

IV. ARGUMENTS FOR AND AGAINST EXEMPTION

General Arguments Given For and Against:

—For exemptions:

The general arguments given for property tax exemption usually fall into one or a combination of these categories:

(1) The tax exempt organization is rendering a public service which cannot be sold. The tax exemption is therefore a form of subsidy to encourage the production of this public service. The teaching of morality and some forms of charity are examples of the type of public good covered under this argument.

(2) The tax exempt organization provides services that would otherwise have to be produced by governmental agencies. The exemption is justified on the grounds that the increased cost of government, if it had to provide the service itself, outweighs the amount of subsidy given through tax exemption. Educational activity is an example of activity that falls into this category.

(3) Some organizations have historically enjoyed property tax exemption and proponents see no reason for change.

—Against exemptions:

The general arguments given against property tax exemptions usually list one or a combination of these points:

(1) Many property taxpaying individuals and institutions teach morality and carry on charitable work. Why should the property of some that carry on this type of activity be exempt and others not?

(2) The rational use of all resources, including land, is based on market prices. Included in the market price of most land and the improvements on it is some consideration of the taxes that must be paid on that property. The existence of property in the same vicinity that does not have to pay property taxes may very well keep the tax exempt land from being put to its best use.

For example, tax exempt property in the downtown area occupies land that might, in the absence of the exemption, be better utilized by commercial firms. This results in less commercial activity than might otherwise occur and less in the way of tax receipts. In many cases the tax exempt organization could function just as well in alternative locations, but the commercial organization could not.

(3) A subsidy to some organizations for any of the reasons in the "argument for" above may very well be justified, but there are better ways of providing such subsidies. Property tax exemptions are hidden subsidies in that the amount of the subsidies are never stated, the value of the subsidy can be determined only with great difficulty (if at all, since assessment data are admittedly inadequate on exempt property) and the amount of these subsidies is not subject to periodic review. The argument is, therefore, that justifiable subsidies should be open, explicit, and subject to periodic review.

(4) Because an exemption has existed historically is not sufficient reason in itself for continuation of exemptions.

(5) A property tax exemption is discriminatory because it causes taxpayers in a tax code area to pay greater taxes, while the benefits of the exemption may accrue to persons outside the tax code area.

(6) Tax exempt organizations use public services and should pay for them.

Arguments given for or against exemptions for specific organizations.

—Literary, benevolent, charitable, or scientific organizations.

—For Exemptions:

(1) The benefit derived by the community through the public services rendered by these types of organizations is far in excess of the cost of granting property tax exemptions.

(2) Some organizations provide services for both the county and the state for which a fee is paid. If the property tax exemption were eliminated, then the costs which the county and state pay for these services would have to be increased to cover the increased expenses.

(3) The increased burden of property taxes would force some of the organizations to discontinue part of their present activities.

—Against Exemptions:

(1) Some organizations invest a large amount of funds in property. The funds should be used for the intention of the organization, and that intention is not always best served by large investments made in property.

(2) The organizations pay other forms of taxes, such as gasoline tax and payroll taxes, so why should they complain about paying property tax also?

(3) Where organizations sell their services, prices charged should include all costs, including the costs of public services supported by property taxes.

(4) It is a question of equity and fairness; not a question of the amount of the tax. If an organization receives the benefits of public services, it should share in the cost of those public services.

—Religious Organizations.

—For Exemptions:

(1) The church is a non-profit organization devoted to the promotion of moral good and social welfare and, therefore, should not be subjected to taxation.

(2) The income of the average church is at best marginal, often submarginal. Taxation of these churches or parishes would almost necessarily mean a reduction of their services to congregation or community.

(3) The police and fire protection enjoyed by a church are not provided gratuitously. The members of the church are already paying for them through their individual property tax contributions.

(4) It is inconsistent to allow a deduction in the individual state income tax for contributions to religion and then proceed to tax religion itself.

(5) The "free exercise" clause of the First Amendment of the U. S. Constitution implements a theological premise that the fundamental claim the church makes on the political order is for freedom. "The power to tax carries with it the power to embarrass and destroy." (*Evans v. Gore*, U. S., 1920) Although it is unlikely that this taxing power would be used to either "embarrass" or "destroy" the church, that possibility is inherent in any power to tax. If the government were to tax property, it would hold a degree of power over the church. (In the recent case of *Murray v. Comptroller*, in which the issue was the practice of exempting churches from taxation, the Maryland Supreme Court held that arguments to this effect had weight.)

(6) Churches attract persons to communities. These persons will build homes and businesses that increase the general value of the area.

(7) The exemption of churches from taxation accords with long standing tradition. The story of Joseph tells of the exemption of priests from turning over one-fifth of their crops to the Pharaoh. The Emperor Constantine in the 4th Century exempted church buildings and adjoining land from taxation. A close relationship of church and state in the American Colonies precluded taxation of churches, some of which were, in fact, tax supported. These exemptions were later extended to dissenting as well as established churches. Exemption was so generally recognized in the early days of the Republic that in some states no special legislation was passed until the middle of the 19th Century. After Massachusetts adopted legislation of this kind in 1837 other states took steps to stabilize custom by statutory or constitutional provisions.

—Against Exemptions:

(1) The arguments for property tax exemption based upon the separation of church and state and "power to tax is power to destroy" are without merit. The state and church are not separate and they cannot be separated without the creation of distinct societies. To believe that the power to tax is the power to destroy, we must disregard our faith in the government on which our society is based. Since tax exemption is a form of government subsidy, the churches by accepting this subsidy, are placing themselves in a situation of dependence on government. The churches have also borrowed and accepted large amounts from government agencies to finance improvements and expansions. They have committed themselves to government.

(2) Paying taxes *may* force some churches to close their doors in certain locations. This is not necessarily bad. There will still be plenty of churches of all denominations for all individuals to attend. The church has been free from the social and profit responsibility that other businesses must face. Because of this, they are, in some cases, poorly organized. The necessity of meeting their social obligations, i.e., payment of taxes, etc., might be beneficial in the long run. Religious organizations may perform a valuable public service, but then, so do many home owners and businesses. The home owners and businesses do not get property tax relief so why should the religious organization. Public service should be the goal for every citizen or organization and need not be rewarded with property tax exemption.

Police and fire protection of church property is not paid for by the church members, but by the community as a whole, some members of which may not belong to or use the services of churches in that area.

—Educational Organizations.

—For Exemptions:

The principal reason for granting tax exemption to educational organizations is due to the public service nature of the activity. The role that the independent colleges and parochial schools play in the community is without question. The schooling that is provided by the private non-profit schools saves the taxpayers a substantial amount of money. It is well known that the schools are having financial problems and some parochial schools have already been

closed in the state. The additional burden of property taxes would undoubtedly force others to close thus shifting the burden of educating the students attending these schools to the taxpayers.

—**Against Exemptions:**

Those against granting property tax exemptions to educational organizations point out that schools are provided by the state for educational purposes and that the students are free to go to the state-supported school if they choose. If they want to go to a private school, that is their choice, but the private school shouldn't be subsidized to the extent of granting property tax exemptions, even though it does save the taxpayer some money.

It is agreed that private schools should be supported, but that there are better ways to support them than through hidden subsidies.

—**Fraternal Organizations.**

—**For Exemptions:**

Arguments for granting fraternal organizations property tax exemptions stem from the charitable activities of the fraternal groups. The proponents of the exemptions point out that many worthwhile causes are sponsored by the fraternal groups.

—**Against Exemptions:**

The amount contributed to charity by some of the fraternal organizations is less than the property tax they would otherwise be paying. Some fraternal organizations are very near to a social club providing restaurant facilities, bar and other recreational facilities. The largest portion of their property is taken up with these noncharitable activities. In many communities, they offer definite competition with local business establishments.

V. ALTERNATIVES TO PRESENT SYSTEM

At least four alternative methods exist for deriving revenue from property that is now tax exempt. These are: Full taxation at presently established rates; partial taxation to cover services actually rendered; in lieu payments; and a gross receipts tax.

1. *Full taxation*—This alternative would completely remove the tax exemptions on all property under consideration, thus subjecting the property to the same tax that applies to currently non-exempt property. It assumes that all property should be treated equally under the law, and that if, for some reason, it is publicly desirable to subsidize some organizations, these subsidies can best be handled as explicit appropriations by the polity. The primary advantage of this alternative is that the exact amount of the subsidy would be known, and it would be subject to periodic review. The primary disadvantage is that it would require additional assessment staff. (The problem of determining market value for improvements to the land is especially acute, since only very infrequently does any exempt property pass through the market). Another potential disadvantage is that subsidy considerations might consume a great deal of legislative time.

2. *Partial Tax for Services Rendered*—Under this alternative, existing tax exempt property would be taxed at a rate based on a partial assessment that is sufficient to cover the public services actually provided. This would mean that the implicit subsidy that now exists would be continued, but by a lesser amount. Thus, an exempt organization would have to pay a tax based on services rendered to it (such as police and fire protection), but not for services it does not receive (such as public education). The advantage of this alternative is that it would provide payment for those public services actually supplied. It would not require that the subsidy be made explicit and subject to review. The attendant problems of assessment would still be present, and there would quite likely be borderline cases of what services are actually received.

3. *In Lieu Payments*—This alternative would require that tax exempt properties make some stipulated contribution to the public revenues but that the payment

would not be on a "tax" basis. This type of payment most often occurs in situations where it is important that the principle of "exemption" be upheld but where there are strong moral or economic grounds for some type of payment—such as in the case of large military reservations. In lieu payments are thus usually payments willingly initiated by the tax exempt organization. Some organizations under consideration already make such payments. However, for these payments to be effective as a revenue producer, it requires that they be imposed by political units on *all exempt* property. If this were done, these payments should, in terms of revenue raised, probably be set somewhere between the amounts implied by (1) and (2) above.

4. *Gross Receipts Tax*—A second way of raising revenue without explicitly taxing property would be to impose a tax on the gross receipts of the organizations under consideration. This would resemble the "shared revenue" payments that are made on Federal forest lands and other types of Federal revenue producing property. Thus, the more income generated by an organization, the greater the taxes. This is not as inequitable as it may seem initially, since only "non-profit" organizations are being considered. Its major advantage is that it would be easy to determine and collect. The payments actually made under this plan would vary a great deal from one group to another and would not necessarily approximate the amount of property taxes raised under alternatives (1) and (2). The City of Philadelphia is currently considering such a plan.

VI. CONCLUSIONS

1. The statutes providing exemptions to the properties studied by your Committee are similar to those in the other states.

2. The statutes are being administered fairly and aggressively in Oregon.

3. Not all exempt organizations are opposed to payments of some property tax.

4. It was estimated that, in Oregon, the true cash value of the type of exempt property reviewed was \$436.4 million in 1968.

5. Placing the entire amount of exempt property on the tax rolls would not generate any additional revenue but would reduce the property tax burden on taxpayers by increasing the assessed value within a tax code area.

6. Placing exempt property on the tax rolls might increase administrative costs because additional appraisers would probably be needed.

7. Property tax exemptions are a hidden subsidy. The amount of the subsidy is difficult to determine and is not subject to legislative review. The exemption can be discriminatory.

8. There are many alternatives to the present form of tax exemption that are available and could provide a more equitable result, in the view of some observers.

9. The literary, benevolent, charitable, scientific and religious organizations are providing a public service that governmental units could not perform, or could not perform without increased taxes. The participation in these activities should be encouraged. All of these organizations do, however, place demands on non-educational public services such as police and fire protection.

10. Sufficient justification does not exist for the continued tax exemption of fraternal organizations, in view of the arguments presented.

11. The elimination of the exemption, in part or whole, of the non-profit private educational institutions could jeopardize their continued existence. The closure of these schools would shift enrollment to public schools, creating higher educational costs.

VII. RECOMMENDATIONS

1. Since the property tax structure of the State of Oregon is riddled with exemptions (see page 44), and since the exemptions which were assigned to be studied by your Committee are only a small portion of the total, it is the recommendation of your Committee that the entire property tax system should be reviewed.

2. In the areas studied by your Committee, the following recommendations are made:

- a. Fraternal organizations, not having substantiated their case for exemptions, should be placed on the tax rolls and taxed at the full rate.
- b. Bona fide non-profit, private, educational institutions should continue in their present exempt status.
- c. All other organizations covered in the charge to your Committee should be placed on the tax rolls and subjected to a tax sufficient to cover the average governmental cost of providing non-educational public services.

3. If the Oregon State Legislative Assembly approves the necessary legislation to enable the implementation of the recommendations in No. 2, above, the Committee recommends that a study should be undertaken to ascertain whether the effect of such legislation should be in the form of property tax relief or result in a means to allow local government to raise more money.

Respectfully submitted,

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Howard L. Cherry, M.D.
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William H. Gregory, *Chairman*

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EXHIBIT A**SCOPE OF INVESTIGATION**

Your Committee interviewed the following persons:

Dr. Laurence Byers, Minister of Westminster Presbyterian Church.
Kermit Carson, Deputy Director of Finance of Multnomah County, Assessment and Taxation Division.
Pete Fleissner, Assistant Executive Director, Association of Oregon Hospitals.
Father Bertchan F. Griffin, Vice Official, Archdiocese of Portland.
Dr. T. Ross Paden, Executive Director, Oregon Council of Churches.
Jack Smith, Assistant Deputy Director of Finance of Multnomah County, Assessment and Taxation Division.
Jim Sullivan, Executive Secretary of The Association of Independent Colleges of Oregon.
James G. Swindells, Executive Director and Legal Counsel, Association of Oregon Hospitals.

Individual members of the Committee discussed the exemptions with:

Arthur E. Crouch, Jr., Assistant Director, Oregon Council of Churches.
Charles J. Devine, Executive Director, United Good Neighbors.
Capt. Paul Harris, Executive Director, Volunteers of America.
Gerald Hendryx, Business Manager, Goodwill Industries.
Fred Hutchinson, Executive Director, Albertina Kerr Home.
Wrex Kruse, Trustee, BPOE.
Jim Setterberg, Budget Officer, City of Portland.
Dr. Daniel E. Taylor, Chairman of Oregon Council of Churches.
Frank White, Assessment Roll Supervisor, Multnomah County.

The Committee sought comments from many organizations and received letters from:

H. M. Buekelman, Executive Director, Oregon United Appeal (Salem).
Lewis O. Buchwach, President, Congregation Shaarie Torah.
Roy J. Ciappini, Executive Director, Boys' Clubs of Portland.
Ed W. Crawford, Executive Director, Friendly House, Inc.
Mrs. Charles Fosterling, Executive Director, Planned Parenthood Assn., Inc.
Yonah H. Geller, Rabbi, Congregation Shaarie Torah.
Mrs. George M. Hansen, President, YWCA.
Glenn H. Home, Department President, The American Legion.
Fred H. Hutchinson, Executive Director, Albertina Kerr Home.
Warren E. Johnson, Director, Portland Center for Hearing & Speech.
Lee David Kell, Treasurer, The Delaunay Institute for Mental Health.
Karl A. Langbecker, A.C.S.W., Lutheran Family Service of Oregon.
Gus B. Lange, Director, Agency Relations Department, UGN.
C. G. Mack, Chairman, State Tax Commission.
Donald D. McKown, President, Family Counseling Service.
Ross C. Miller, Executive Director, Parry Center for Children.
Phillip F. Murphy, Executive Secretary, Catholic Youth Organization.
Frank Nearing, Assistant Director, Catholic Charities of Lane County, Inc.
A. F. Pavenstedt, Property Manager, Columbia River Girl Scout Council.
Alvin Rackner, ACSW, Executive Director, Jewish Family and Child Service.
Carl V. Sandoz, Executive Director, Tri-County Community Council.
Sister M. Veronica Ann, Executive Director, Christie School.
Morris Stein, Executive Director, Jewish Welfare Federation of Portland, Oregon.
Howard J. Stroud, Executive Director, Oregon Heart Association.

The Committee studied relevant U. S. and Oregon constitutional and statutory provisions and reviewed pertinent court cases. Mr. K. C. Forester, Research Intern, reviewed the statutory provisions of all states and compared them with Oregon.

The Committee reviewed various studies in local governmental finances as well as pertinent portions of the following publications:

Meyers, Harold B., "Tax-Exempt Property: Another Crushing Burden for the Cities", *Fortune*, May 1, 1969.

Armstrong, O. K., "Should Churches Be Allowed to do Business Tax-Free?", *Readers Digest*, March, 1969, pp. 84-88.

Ecker-Racz, L. L., *Financing the District of Columbia*, June 30, 1968.

O'Bannon, Joan E., "Payments from Tax-Exempt Property", *Property Taxation—USA*, Richard Lindholm, ed., 1967.

Shaffer, Helen B., "Tax Exemption of Church Property", *Editorial Research Reports*, November 11, 1964.

The Problem of Tax-Exempt Property in Philadelphia, Pennsylvania Economy League, 1966.

The Role of the State in Strengthening the Property Tax, Advisory Commission on Intergovernmental Relations, 1963.

Monroe County, New York, The Real Property Tax, Rochester Bureau of Municipal Research, Inc., May, 1968.

The Committee also reviewed articles, editorials and letters to the editor in the following publications: *Argus*, January 17, 1969; *Capitol Journal* (Salem, Oregon), April 10, 1969; *Catholic Sentinel*, April 18, 1969; *Citizens League News* (Minneapolis), November 30, 1967; *National Observer*, March 24, 1969; *The Oregonian*, March 19, March 20, April 5, April 8, April 11, April 14, April 15, April 17, April 18, and April 20, 1969; *Time*, July 1, 1966; *San Francisco Chronicle*, April 23, May 13 and May 14, 1966; and *Wall Street Journal*, March 26, 1969.

The tax partners of a national accounting firm with offices in all major cities were contacted as to studies on exemptions taking place in their communities.

Hearings before the Oregon House and Senate Taxation Committees were attended by a member of your Committee.

EXHIBIT B**OREGON STATUTES PROVIDING EXEMPTION**

ORS 307.130. Upon compliance with ORS 307.162⁽¹⁾ the following property owned or being purchased by incorporated literary, benevolent, charitable and scientific institutions shall be exempt from taxation:

(1) Except as provided in ORS 748.545, only such real or personal property, or proportion thereof, as is actually and exclusively occupied or used in the literary, benevolent, charitable or scientific work carried on by such institutions.

(2) Parking lots maintained solely for the use, without charge, of persons going to and from the property exempted under subsection (1) of this section, but not if such lots are used for parking or other purposes not connected with the use and maintenance of such property.

ORS 307.134. (1) For the purposes of ORS 307.136, "fraternal organization" means a corporation:

(a) Organized as a corporation not for profit under the laws of any state or national government;

(b) Which is not solely a social club but is established under the lodge system with ritualistic form of work and representative form of government;

(c) Which regularly engages in or provides financial support for some form of benevolent or charitable activity with the purpose of doing good to others rather than for the convenience of its members;

(d) No part of the income of which is distributable to its members, directors or officers;

(e) In which no member, officer, agent or employee is paid, or directly or indirectly receives, in the form of salary or other compensation, an amount beyond that which is just and reasonable compensation commonly paid for such services rendered and which has been fixed and approved by the members, directors or other governing body of the corporation; and

(f) Which is not a college fraternity or sorority.

(2) For the purpose of ORS 307.136, "fraternal organization" includes but is not limited to, the grand and subordinate lodges of the Masons, the grand and subordinate lodges of the Knights of Pythias, the Knights of Columbus, the Benevolent and Protective Order of Elks, the Fraternal Order of Eagles, the Loyal Order of Moose, the Independent Order of Odd Fellows, the Oregon State Grange, the American Legion and the Veterans of Foreign Wars.

ORS 307.136. Upon compliance with ORS 307.162, the following property owned or being purchased by fraternal organizations shall be exempt from taxation:

(1) All the real or personal property, or portion thereof, which is actually occupied or used in fraternal or lodge work or for entertainment and recreational purposes by one or more fraternal organizations, except that property or portions of property of a fraternal organization rented or leased by it at any time to other persons for sums greater than out-of-pocket expenses for heat, light, water and janitorial services and supplies shall be subject to taxation.

(2) Parking lots maintained solely for the use, without charge, of persons going to and from the building exempt under subsection (1) of this section, but not if said lots are used for parking or other purposes not connected with the use or maintenance of the buildings.

ORS 307.140. Upon compliance with ORS 307.162, the following property owned or being purchased by religious organizations shall be exempt from taxation:

⁽¹⁾ORS 307-162 requires filing of statements with county assessor to secure exemption.

(1) All houses of public worship and other additional buildings used solely for entertainment and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips and furniture therein. However, any part of any house of public worship which is kept or used as a store or shop or for any purpose other than for public worship shall be assessed and taxed the same as other taxable property.

(2) Parking lots maintained solely for the use, without charge, of persons going to and from the buildings exempt under subsection (1) of this section, but not if said lots are used for parking or other purposes not connected with the use or maintenance of the buildings.

ORS 307.145. If not otherwise exempt by law, the schools, academies and student housing accommodations, owned or being purchased by incorporated eleemosynary institutions or by incorporated religious organizations, used exclusively by such institutions or organizations for or in immediate connection with educational purposes, are exempt from taxation.

EXHIBIT C

EXEMPTIONS FOR ALL STATES IN GENERAL⁽¹⁾

1. *Literary Institutions:* Included in this category are all properties of literary as well as educational institutions, schools, libraries, museums, etc. Certain states distinguish between literary and educational institutions while others either mention one or the other and imply the property of both. All states vary as to the extent the properties of literary and educational institutions are exempt, but basically all buildings and real estate with a schoolbuilding on it and any land or personalty used exclusively for non-profit educational and/or literary purposes is exempted from property tax. Only Delaware, Indiana, Iowa, Mississippi, New Jersey, Rhode Island, and Washington place an acreage limitation on the amount of property that can be owned by an educational or literary institution and be exempted.
2. *Charitable Institutions:* All states exempt the properties, buildings and personalty of charitable institutions as long as they are used exclusively for a purely public charitable purpose. Included in this category are hospitals performing a certain percentage of charitable work and charging on an ability to pay basis, asylums, orphanages, homes for the poor, indigent and/or afflicted, etc. All institutions must be non-profit. Alabama and Nevada place a dollar value limitation on how much property can be exempted while Florida, Mississippi, New Jersey and Wisconsin place acreage limitations on the amount of property that can be owned by these organizations and be exempted.
3. *Benevolent organizations:* Only Alabama, Florida, Indiana, Kansas, Maryland, Massachusetts, Nevada, North Carolina, North Dakota, South Dakota, Texas, Virginia, Washington, West Virginia, and Wisconsin mention benevolent institutions as being distinguished from charitable institutions or fraternal organizations. However, not one state defines the difference between benevolent or charitable institutions, thereby making separate rules and statutes for exemptions of these organizations difficult. Unless otherwise stated, benevolent organizations are exempted from taxation on their real and personal property as a charitable institution. Nevada places a dollar value limitation on the amount of property that can be exempted as such and Wisconsin places an acreage limitation on exempted property of this type.
4. *Fraternal Organizations:* Laws regarding fraternal organizations' property tax exemptions differ in each state. Arizona, Illinois, New Jersey and Vermont do not exempt fraternal organizations of any kind as stated in their property tax laws. Fourteen other states do not mention fraternal organizations in their tax statutes and therefore they should be considered taxable although they might be granted exemptions because of charitable activities. All the other states note that to qualify for the exemption, a fraternal organization must be non-profit and either charitable or benevolent by nature. There are various restrictions in each state regarding the properties of veterans' organizations, college fraternities, and other social fraternities.
5. *Scientific Institutions:* Exemptions specifically for property owned by scientific or research institutions used specifically for those purposes are only mentioned in the statutes regarding Alabama, Connecticut, Indiana, Florida, Iowa, Massachusetts, and Michigan. Scientific institutions in all other states not noting them in their laws must be considered taxable unless they qualify under the general exemption for charitable and non-profit organizations.
6. *Religious Organizations:* All states exempt real and personal property of religious organizations when that property is used exclusively for religious purposes. Kansas, Kentucky, Mississippi, New Jersey, North Dakota, Rhode Island, Tennessee, Texas, Washington and Wisconsin place acreage limitations on the amount of religious property that can be exempted. Massachusetts places a dollar value limitation on the exempted property. Most all states have various restrictions regarding the parsonage(s), parking lots and vacant lots owned or rented by church organizations.

⁽¹⁾For specific laws regarding these categories in each state, refer to the Prentice-Hall or CCH reports for that state.